

Chapter 34  
**ENVIRONMENT\***

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## ARTICLE I. IN GENERAL

**Secs. 34-1—34-30. Reserved.**

## ARTICLE II. INOPERABLE, JUNKED OR WRECKED VEHICLES\*

### Sec. 34-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned and inoperable.* A vehicle shall be deemed abandoned or inoperable when it is not capable of being started or safely and properly operated on the highway, or is a vehicle which does not bear a valid and current license plate as required by law.

*Property* means any real property within the city which is not a street or highway.

*Street and highway* mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

*Vehicle* means any machine propelled by power, other than human power, designed to travel along the ground by use of wheels, treads, runners or slides to transport persons or property or pull machinery, and shall include without limitation an automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

(Ord. No. 84-229, § 1(1), eff. 5-17-1984)

**Cross reference**—Definitions generally, § 1-2.

### Sec. 34-32. Penalty.

Any person violating any provision of this article shall, upon conviction thereof, be punished as provided in section 1-13. Every day that a violation of this article is continued or permitted to exist without compliance shall constitute a separate offense, punishable upon conviction in the same manner as prescribed in this section for the original offense.

(Ord. No. 84-229, § 1(4.1), eff. 5-17-1984)

\***Cross reference**—Traffic and vehicles, ch. 86.

### Sec. 34-33. Abandonment of vehicles.

No person shall abandon any vehicle within the city and no person shall leave any vehicle at any street, highway or property within the city for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

(Ord. No. 84-229, § 1(2.1), eff. 5-17-1984)

### Sec. 34-34. Leaving wrecked or nonoperating vehicles on street.

No person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway within the city.

(Ord. No. 84-229, § 1(2.2), eff. 5-17-1984)

### Sec. 34-35. Limitations on storage; exceptions.

No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked or discarded vehicle to remain on such property longer than 48 hours without obtaining a permit as authorized by section 34-36, and no person shall leave any such vehicle on any property within the city for longer than 120 days; except that this article shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(Ord. No. 84-229, § 1(2.3), eff. 5-17-1984)

### Sec. 34-36. Permit for storage.

(a) *Application.* An application shall be made to the city clerk's office within 48 hours after a vehicle has become partially dismantled, inoperable, wrecked, junked or abandoned and is located in an area not exempted by section 34-35. An application form shall be filed with the city clerk's office on a form furnished by the city clerk and state the following:

- (1) The address of the premises where the vehicle is to be located.

- (2) The name and address of the owner or person in control of the premises, and a statement attesting to his permission for such vehicle to be parked and the date of such permission.
- (3) The name and address of the registered owner of the inoperable vehicle for which the permit is sought. The registration or title shall be presented to the officer issuing the permit.
- (4) The description of the inoperable vehicle for which a permit is sought, as to the make, model, year of manufacture, last license issued, and condition which renders it inoperable.
- (5) The estimated length of time, not to exceed 60 days, for which the permit is being requested in order to restore the vehicle to operating condition.
- (6) The signature of the applicant.

(b) *Conditions.* Every permit for storage of an inoperable vehicle on property shall be subject to the following conditions:

- (1) No nuisance or safety hazards shall be created or maintained.
- (2) All broken glass or partially detached parts shall be either removed and disposed of as rubbish or secured in a manner so as to prevent hazard.
- (3) Trunk or storage compartments shall be kept locked or otherwise secured adequately to prevent possible entrapment of a child.
- (4) Wheels or tires shall not be removed from the vehicle except for repairs.
- (5) The last issued license plate shall be kept on the vehicle.
- (6) The vehicle shall not be elevated or blocked in any unsafe manner.
- (7) Parts or components removed from the vehicle shall not be stored in the open.
- (8) No waste oil or other fluid shall be allowed to flow onto the ground or pavement from the vehicle.

- (9) The vehicle shall be parked only in the rear yard of residential property.
- (10) No violation of the zoning ordinance shall be created.
- (11) All information furnished by the applicant as required by subsection (a) of this section shall be essentially correct, and any false statement shall be a violation of this article.
- (12) Repair of vehicles of others is prohibited.
- (13) No more than one inoperable vehicle shall be permitted on any premises.

(c) *Revocation; order to remove vehicle.* Any permit issued under the authority of this article may be revoked at the discretion of the city clerk's office when in his designate's opinion a violation of this article exists. Notice of such revocation shall be delivered to the permittee or posted conspicuously on the vehicle, along with a notice to cease storing the vehicle and to remove it to a proper storage or disposition location. A permittee shall remove the vehicle within ten days after receiving the notice or after the notice is posted.

(d) *Fee.* The city shall collect a fee as set by resolution of the city council at the time of the issuance of a permit for storage of an inoperable vehicle or renewal thereof.  
(Ord. No. 84-229, § 1(3.1—3.5), eff. 5-17-1984)

**Secs. 34-37—34-60. Reserved.**

### ARTICLE III. LITTER\*

#### Sec. 34-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Aircraft* means any contrivance now known or hereafter invented, used or designated for navi-

\***Cross references**—Solid waste, ch. 70; littering or dumping of solid waste, § 70-6.

**State law reference**—Littering, MCL 324.8901 et seq., MSA 13A.8901 et seq.

gation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

*Authorized private receptacles for litter* means storage and collection receptacles as required and authorized in chapter 70.

*Commercial handbill* means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper or booklet, or any other printed or otherwise reproduced original or copy of any matter of literature which:

- (1) Advertises for sale any merchandise, product, commodity or thing;
- (2) Directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit; but the terms of this subsection shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying expenses sustained by such meeting, performance, exhibition or event of any kind when such meeting, performance, exhibition or event is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this subsection shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license where such license is or may be required by any law of this state, or under any ordinance of this city; or
- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising

purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

*Garbage* means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

*Litter* means garbage, refuse and rubbish as defined in this section and all other waste material which, if thrown or deposited as prohibited in this article, tends to create a danger to public health, safety and welfare.

*Newspaper* means any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

*Noncommercial handbill* means any printed or written matter, any sample, device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper or booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the definition of a commercial handbill or newspaper.

*Park* means a park, reservation, playground, beach, recreation center or any other public area in the city owned or used by the city or other public agency and devoted to active or passive recreation.

*Private premises* means any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

*Public place* means any and all streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

*Refuse* means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

*Rubbish* means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

*Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Ord. No. 73-127, §§ 2.1—2.3, 2.5—2.10, 2.12—2.16, eff. 3-14-1973)

**Cross reference**—Definitions generally, § 1-2.

**Sec. 34-62. Violations designated municipal civil infraction.**

A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 1-13. Repeat offenses under this article shall be subject to increased fines as set forth in section 1-13.

(Ord. No. 99-119, § 1, eff. 12-19-99)

**Sec. 34-63. Depositing litter in public places.**

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city except in public receptacles, in authorized private receptacles for collection, or in official city dumps.

(Ord. No. 73-127, § 3.1, eff. 3-14-1973)

**Sec. 34-64. Manner of placing litter in receptacles.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Ord. No. 73-127, § 3.2, eff. 3-14-1973)

**Sec. 34-65. Sweeping litter into gutter or street; duty of abutting owners and occupants to keep sidewalk free of litter.**

(a) No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(b) No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free of litter.

(Ord. No. 73-127, §§ 3.3, 3.4, eff. 3-14-1973)

**Sec. 34-66. Throwing litter from vehicle.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property.

(Ord. No. 73-127, § 3.5, eff. 3-14-1973)

**Cross reference**—Traffic and vehicles, ch. 86.

**Sec. 34-67. Vehicle loads causing litter; vehicles depositing dirt or other substances on street.**

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street, alley or other public place mud, dirt, sticky substances, litter or foreign matter of any kind.

(Ord. No. 73-127, § 3.6, eff. 3-14-1973)

**Cross reference**—Traffic and vehicles, ch. 86.

**Sec. 34-68. Depositing litter in parks.**

No person shall throw or deposit litter in any park within the city except in public receptacles

and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this article.

(Ord. No. 73-127, § 3.7, eff. 3-14-1973)

**Cross reference**—Parks and recreation, ch. 54.

**Sec. 34-69. Depositing litter in fountain or water body.**

No person shall throw or deposit litter in any fountain, pond, lake, stream, pool, or any other body of water in a park or elsewhere within the city.

(Ord. No. 73-127, § 3.8, eff. 3-14-1973)

**Cross references**—Waterways, ch. 102; depositing litter in water body or drainage ditch, § 102-3.

**Sec. 34-70. Dropping litter from aircraft.**

No person in an aircraft shall throw out, drop or deposit within the city any litter or handbill or any other object.

(Ord. No. 73-127, § 3.14, eff. 3-14-1973)

**Sec. 34-71. Depositing litter on occupied private property.**

No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(Ord. No. 73-127, § 3.16, eff. 3-14-1973)

**Sec. 34-72. Duty of owner to maintain premises free of litter.**

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Ord. No. 73-127, § 3.17, eff. 3-14-1973)

**Sec. 34-73. Depositing litter on vacant lot.**

No person shall throw or deposit litter on any open or vacant private property within the city, whether owned by such person or not.

(Ord. No. 73-127, § 3.18, eff. 3-14-1973)

**Sec. 34-74. Depositing or distributing handbills in public places.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the city, nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.

(Ord. No. 73-127, § 3.9, eff. 3-14-1973)

**Sec. 34-75. Placing handbills on vehicles.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(Ord. No. 73-127, § 3.10, eff. 3-14-1973)

**Cross reference**—Traffic and vehicles, ch. 86.

**Sec. 34-76. Depositing handbills on uninhabited premises.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(Ord. No. 73-127, § 3.11, eff. 3-14-1973)

**Sec. 34-77. Depositing handbills on posted premises or contrary to request of occupant.**

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the

premises, in a conspicuous position near the entrance thereof, a sign bearing the words "No Trespassing," "No Peddlers or Agents" or "No Advertisements," or any similar notice indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon their premises.  
(Ord. No. 73-127, § 3.12, eff. 3-14-1973)

**Sec. 34-78. Distributing handbills at inhabited private premises.**

(a) *Generally.* No person shall throw, deposit or distribute any commercial or noncommercial handbills in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to such owner, occupant or other person then present in or upon such private premises; provided, however, that in the case of inhabited private premises which are not posted as provided in this article, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations.

(b) *Exemption for mail and newspapers.* The provisions of this section shall not apply to the distribution of mail by the United States, or to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place.  
(Ord. No. 73-127, § 3.13, eff. 3-14-1973)

**Sec. 34-79. Posting notices on lampposts, utility poles, trees or public buildings.**

No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any lamppost, public

utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.  
(Ord. No. 73-127, § 3.15, eff. 3-14-1973)

**Secs. 34-80—34-100. Reserved.**

**ARTICLE IV. SOIL EROSION AND SEDIMENTATION CONTROL\***

**DIVISION 1. GENERALLY**

**Sec. 34-101. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accelerated soil erosion* means the increased lay of the land surface that occurs as a result of man's activities.

*Building inspector* means the building inspector of the city or his duly authorized representative.

*Certification of completion* means a signed written statement by the city engineer or building inspector that specifies that construction has been inspected and found to comply with all grading plans and specifications.

*City engineer* means the city engineer or his duly authorized representative.

*Earth change* means a manmade change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state.

*Erosion* means the process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

\***Cross reference**—Storm sewers, § 90-311 et seq.

**State law reference**—Soil erosion and sedimentation control, MCL 324.9101 et seq., MSA 13A.9101 et seq.



*Excavation and cut* mean any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated, and shall include the conditions resulting therefrom.

*Floodplain* means that area which would be inundated by storm runoff or floodwater equivalent to that which would occur with a rainfall or flood of 100-year recurrence frequency after total development of the watershed.

*Grading* means any stripping, excavating, filling or stockpiling, or any combination thereof, and shall include the land in its excavated or filled condition.

*Grading permit* means a permit issued to authorize work to be performed under this article.

*Land use* means a use of land which may result in an earth change, including but not limited to subdivision, residential, commercial, industrial, recreational or other development, private and public highway, road and street construction, drainage construction, logging operations, agricultural practices and mining.

*Permanent soil erosion control measure* means those control measures which are installed or constructed to control soil erosion and which are maintained after project completion.

*Stripping* means any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

*Temporary soil erosion control measures* means interim control measures which are installed or constructed for the control of soil erosion until permanent soil erosion control is effected. (Ord. No. 75-144, §§ 3.1—3.4, 3.6—3.14, 3.16, 3.17, eff. unknown)

**Cross reference**—Definitions generally, § 1-2.

#### **Sec. 34-102. Penalty.**

Any person violating any of the provisions of this article shall, upon conviction thereof, be punished as provided in section 1-13. Every day that a violation of this article is continued or permitted to exist without compliance shall con-

stitute a separate offense, punishable upon conviction in the same manner as prescribed in this section for the original offense.

(Ord. No. 75-144, § 11.2, eff. unknown)

#### **Sec. 34-103. Findings.**

The city council hereby finds that excessive quantities of soil are eroding from certain areas that are undergoing development for nonagricultural uses such as housing developments, industrial areas, recreational uses and roads. This erosion makes necessary costly repairs to gullies, washed-out fills, roads and embankments. The resulting sediment clogs storm sewers and road ditches, muddies streams and silts-in lakes and reservoirs and is considered a major water pollutant.

(Ord. No. 75-144, § 2.1, eff. unknown)

#### **Sec. 34-104. Purpose of article.**

The purpose of this article is to prevent soil erosion and sedimentation from nonagricultural development within the city by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health, convenience and general welfare of the community.

(Ord. No. 75-144, § 2.2, eff. unknown)

#### **Sec. 34-105. Compliance with article.**

(a) *Approval of site plans and plats.* No site plan, plot plan or plat shall be approved under any other ordinance unless the site plan, plot plan or plat shall include soil erosion and sediment control measures consistent with the requirements of this article and related land development regulations.

(b) *Issuance of occupancy permits.* No certificate of occupancy for any building will be issued under any other ordinance unless the applicant for the certificate shall have obtained a certification of completion indicating compliance with all grading plans and specifications and completion of all permanent soil erosion control measures.

(Ord. No. 75-144, §§ 4.1, 4.2, eff. unknown)

**Sec. 34-106. Exceptions.**

(a) No permits shall be required under this article for the following:

- (1) Agricultural use of land zoned agricultural.
- (2) Grading or an excavation below finished grade for basements, footings, retaining walls or other structures on plots zoned R1 of less than 20,000 square feet and more than 100 feet from any lake, stream or drainage course.
- (3) A sidewalk or driveway authorized by a valid permit.
- (4) Gravel, sand, dirt or topsoil removal.
- (5) Where the city engineer or building inspector certifies in writing that the planned work and the final structures or topographical change will not result in or contribute to soil erosion or sedimentation of the waters of the state, will not interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way, will not abate any hazard to any persons or property, and will have no detrimental influence upon the public welfare or upon the total development of the watershed.

(b) Although no permits are required under subsections (a)(1) through (4) of this section, the operations and construction exempted from obtaining permits must comply with the rules and regulations concerning grading and erosion specified in this article.

(Ord. No. 75-144, § 9.1, eff. unknown)

**Sec. 34-107. Appeals and variances.**

Where it is alleged that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the city engineer under this article, the board of zoning appeals shall have the power to hear specific applications and may amend or change such order, requirement, decision, grant or refusal so that it is in harmony with the general purpose and intent of

the requirements. The procedural requirements for appeals under the zoning ordinance shall be applicable to appeals under this article.

(Ord. No. 75-144, § 9.2, eff. unknown)

**Sec. 34-108. Enforcement generally; inspections.**

The requirements of this article shall be enforced by the city engineer or, where a building permit is required, by the building inspector. The city engineer or building inspector shall inspect the work and shall require adequate inspection of compaction by a soil engineer or by a soil testing agency approved by the city engineer, unless he determines that such inspection requirements may be waived due to the nonhazardous nature of the grading.

(Ord. No. 75-144, § 10.1, eff. unknown)

**Sec. 34-109. Certificate of completion.**

Upon satisfactory execution of all approved grading plans and other requirements, the city engineer or building inspector shall issue a certification of completion. If the city engineer or building inspector finds any existing conditions not as stated in any application, grading permit or approved plan, he may refuse to approve further work until approval of a revised grading plan which will conform to the existing conditions.

(Ord. No. 75-144, § 10.2, eff. unknown)

**Sec. 34-110. Injunctive relief.**

Notwithstanding the existence or pursuit of any other remedy, the city may maintain an action in its own name in any court of competent jurisdiction for an injunction or other process against any person to restrain or prevent violations of this article.

(Ord. No. 75-144, § 10.3, eff. unknown)

**Sec. 34-111. Right of entry.**

The city engineer or building inspector, or their duly authorized agents, may enter at all reasonable times in or upon any private or public property for the purpose of inspecting and investigating conditions and practices which may be a violation of this article or the rules of the state department of natural resources, water resources

commission, promulgated pursuant to part 91 of the natural resources and environmental protection act, Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.9101 et seq., MSA 13A.9101 et seq.).

(Ord. No. 75-144, § 10.4, eff. unknown)

**Secs. 34-112—34-130. Reserved.**

**DIVISION 2. PERMIT**

**Sec. 34-131. Required.**

Except as exempted by this article, no person shall do any grading, stripping, excavating or filling or undertake any earth change unless he has a valid grading permit issued by the city engineer or building inspector.

(Ord. No. 75-144, § 5.1, eff. unknown)

**Sec. 34-132. Application; preparation of plans.**

A separate application shall be required for each grading permit. Plans, specifications and timing schedules shall be submitted with each application for a grading permit. The soil erosion and sedimentation control plan shall be prepared or approved by a person who is trained and experienced in soil erosion and sedimentation control methods and techniques; provided, however, that the city engineer may waive the preparation or approval of such plan when the work entails little hazard to the adjacent property and does not include the construction of fill upon which a structure may be erected.

(Ord. No. 75-144, § 5.1, eff. unknown; Ord. No. 75-149, § 1, 5-15-1975)

**Sec. 34-133. Contents of plans.**

The plans and specifications accompanying the grading permit application shall contain the following data:

- (1) A vicinity sketch at the scale of one inch equals 200 feet indicating the site location as well as the adjacent properties within 500 feet of the site boundaries.
- (2) A boundary line survey of the site on which the work is to be performed.

(3) A plan of the site at a scale of one inch equals 100 feet showing:

- a. The name, address and telephone number of the owner, developer and petitioner.
- b. A timing schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.
- c. A certified statement of the quantity of excavation and fill involved.
- d. Existing topography at a maximum of five-foot contour intervals.
- e. Proposed topography at a maximum of five-foot contour intervals.
- f. Location of any structure or natural features on the site.
- g. Location of any structure or natural features on the land adjacent to the site and within 50 feet of the site boundary line.
- h. Location of any proposed additional structures or development on the site.
- i. Elevations, dimensions, location, extent and slope of all proposed grading, including building and driveway grades.
- j. The estimated total cost of the required temporary and permanent soil erosion control measures.
- k. Plans of all drainage provisions, retaining walls, cribbing, planting, anti-erosion devices, or other temporary or permanent soil erosion control measures to be constructed in connection with or as a part of the proposed work, together with a map showing the drainage area of land tributary to the site and estimated runoff of the area served by any drains.
- l. Other information or data as may be required by the city engineer, such

as a soil investigation report, which shall include but not be limited to data regarding the nature, distribution and supporting ability of existing soils and rock on the site.

(Ord. No. 75-144, § 5.3, eff. unknown)

**Sec. 34-134. Fees.**

At the time of filing an application for a grading permit, a nonrefundable filing fee as set by resolution of the city council shall be paid to the city treasurer. An additional nonrefundable fee as set by resolution of the city council will be charged for plan review and site inspections. Such fees shall not be required where a building permit is also obtained for such work.

(Ord. No. 75-144, § 5.4, eff. unknown)

**Sec. 34-135. Bond.**

(a) A grading permit shall not be issued unless the permittee shall first post with the city a bond executed by the owner and a corporate surety with authority to do business in this state as a surety.

(b) The bond shall be in a form approved by the city attorney, payable to the city, and in the amount of the estimated total cost of all temporary or permanent soil erosion control measures. The total cost shall be estimated by the city engineer or building inspector. The bond shall include penalty provisions for failure to complete the work on schedule as specified on the grading permit. In lieu of a surety bond, the applicant may file with the city a cash bond or an instrument of credit approved by the city attorney in the amount equal to that which would be required for the surety bond.

(c) Every bond and instrument of credit shall include and every cash deposit shall be made on the condition that the permittee shall comply with all of the provisions of this article and all of the terms and conditions of the grading permit and shall complete all of the work contemplated under the grading permit within the time limit specified in the grading permit, or if no time limit is specified within 180 days after the date of issuance of the grading permit.

(Ord. No. 75-144, § 6.1, eff. unknown)

**Sec. 34-136. Extension of time for completing work.**

If a permittee under this article is unable to complete the work within the specified time, he may, at least ten days prior to the expiration of the permit, present in writing to the city engineer and building inspector a request for an extension of time, setting forth the reasons for the requested extension. If such an extension is warranted, the city engineer may grant additional time for the completion of the work, but no such extension shall release the owner or the surety on the bond or the person furnishing the instrument of credit or cash bond.

(Ord. No. 75-144, § 6.2, eff. unknown)

**Sec. 34-137. Failure to complete work.**

In the event of failure to complete the work or failure to comply with all the requirements, conditions and terms of grading permit, the city engineer or building inspector may order such work as is necessary to eliminate any danger to persons or property and to leave the site in a safe condition, and he may authorize completion of all necessary temporary or permanent soil erosion control measures. The permittee and the surety executing the bond or person issuing the instrument of credit or making the cash deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the city in causing any and all such work to be done. In the case of a cash deposit, any unused portion thereof shall be refunded to the permittee.

(Ord. No. 75-144, § 6.3, eff. unknown)

**Sec. 34-138. Denial.**

Grading permits shall not be issued where:

- (1) The proposed work would cause hazards to the public safety and welfare;
- (2) The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on

any public way or into any waterway or create an unreasonable hazard to persons or property;

- (3) The land area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability, or any other such hazard to persons or property; or

- (4) The land area for which the grading is proposed may lie within the floodplain of any stream or watercourse (not specifically designated and delineated by the city as an area subject to flood hazard), unless a hydrologic report, prepared by a professional engineer, is submitted to certify that the proposed grading will have, in his opinion, no detrimental influence on the public welfare or upon the total development of the watershed.

(Ord. No. 75-144, § 7.1, eff. unknown)

**Sec. 34-139. Modifications of approved plans.**

All modifications of the approved grading plans must be submitted and approved by the city engineer or building inspector. All necessary sustaining reports shall be submitted with any proposal to modify the approved grading plan. No grading work in connection with any proposed modification shall be permitted without the approval of the city engineer.

(Ord. No. 75-144, § 7.2, eff. unknown)

**Sec. 34-140. Responsibilities of permittee.**

During grading operations, the permittee shall be responsible for:

- (1) The prevention of damage to any public utilities or services within the limits of grading and along any routes of travel of the equipment.
- (2) The prevention of damage to adjacent property. No person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk or alley or any public or private property

without supporting and protecting such property from settling, cracking or other damage which might result.

- (3) Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of the permit and this article.

- (4) The prompt removal of all soil, miscellaneous debris or other materials applied, dumped or otherwise deposited on public streets, highways, sidewalks or other public thoroughfares during transit to and from the construction, where such spillage constitutes a public nuisance or hazard.

(Ord. No. 75-144, § 7.3, eff. unknown)

**Secs. 34-141—34-160. Reserved.**

**DIVISION 3. REQUIREMENTS**

**Sec. 34-161. General standards.**

(a) Any earth changes shall be conducted in such a manner which will effectively reduce accelerated soil erosion and resulting sedimentation.

(b) All persons engaged in earth changes shall design, implement and maintain acceptable soil erosion and sedimentation and control measures, in conformance with part 91 of the natural resources and environmental protection act, Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.9101 et seq., MSA 13A.9101 et seq.), and all official rules of the state water resources commission promulgated pursuant thereto, which effectively reduce accelerated soil erosion.

(c) All earth changes shall be designed, constructed and completed in such a manner which shall limit the exposed area of any disturbed land for the shortest possible period of time.

(d) Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change.

(e) Any temporary or permanent facility designed and constructed for the conveyance of

water around, through or from the earth change area shall be designed to limit the water flow to a non-erosive velocity.

(Ord. No. 75-144, §§ 8.1—8.5, eff. unknown)

**Sec. 34-162. Temporary erosion control facilities; completion of permanent facilities.**

(a) Temporary soil erosion control facilities shall be removed and earth change areas graded and stabilized with permanent soil erosion control measures pursuant to approved standards and specifications as prescribed by the state water resources commission rules.

(b) Permanent soil erosion control measures for all slopes, channels and ditches or any disturbed land area shall be completed within 15 calendar days after final grading or the final earth change has been completed. When it is not possible to permanently stabilize a disturbed area after an earth change has been completed or where significant earth change activity ceases, temporary soil erosion control measures shall be implemented within 30 calendar days. All temporary soil erosion control measures shall be maintained until permanent soil erosion control measures are implemented.

(Ord. No. 75-144, §§ 8.6, 8.7, eff. unknown)

**Sec. 34-163. Maintenance of protective devices.**

Persons carrying out soil erosion and sediment control measures under this article, and all subsequent owners of property concerning which such measures have been taken, shall maintain all permanent anti-erosion devices, retaining walls, structures, plantings and other protective devices.

(Ord. No. 75-144, § 8.8, eff. unknown)

**Sec. 34-164. Minimum design standards.**

All grading plans and specifications, including extensions of previously approved plans, shall include provisions for erosion and sediment control in accordance with, but not limited to, the standards contained in Standards and Specifications for Soil Erosion and Sediment Control, published by the Wayne County Conservation Dis-

trict. Copies of such standards shall be available for inspection in the office of the city clerk and the city engineer.

(Ord. No. 75-144, § 8.9, eff. unknown)

**Secs. 34-165—34-180. Reserved.**

**ARTICLE V. PLANTING, MAINTENANCE AND REMOVAL OF TREES\***

**Sec. 34-181. Purpose.**

The purpose of this article is to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the city.

(Ord. No. 99-116, §1, eff. 9-30-99)

**Sec. 34-182. Definitions.**

The following terms, as used in this article, shall have the meanings provided:

*City* shall mean the City of Belleville, Wayne County, Michigan.

*Private tree* shall mean any tree which is not a street tree or a public tree.

*Public tree* shall mean any tree in all areas owned by the city.

*Street tree* shall mean any tree growing within the right-of-way of any street or alley.

*Tree* shall mean any tree, shrub, bush or other woody vegetation.

(Ord. No. 99-116, § 2, eff. 9-30-99)

**Sec. 34-183. City tree board.**

There is hereby created and established a city tree board which shall consist of five members appointed by the mayor with the approval of the city council. At least three members shall be city

\***Cross reference**—Tree preservation and planting, § 42-190 et seq.

residents, at least one member shall be a business owner, and if available at least one member shall be a professional tree expert.

- (1) *Term of office.* The term of the five persons to be appointed shall be for three years, except that the term of one of the members appointed to the first board shall be for one year and the term of two members of the first board shall be for two years. In the event that a vacancy shall occur during the term of any member, his/her successor shall be appointed for the unexpired portion of the term.
  - (2) *Compensation.* Members of the board shall serve without compensation.
  - (3) *Duties and responsibilities.* It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of street trees and public trees. Such plan will be presented annually to the city council and upon their acceptance and approval shall constitute the official city tree plan for the city. The board, when requested by the city council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.
  - (4) *Operation.* The board shall choose its own officers, make its own rules and regulations subject to approval of the city council, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.
- (Ord. No. 99-116, § 3, eff. 9-30-99)

**Sec. 34-184. Street and public tree planting and maintenance.**

The city shall have the right to plant, prune, maintain and remove street trees and public trees within the city as may be necessary to insure

public safety or to preserve or enhance the symmetry and beauty of such public grounds, subject to the following requirements:

- (1) The tree board shall establish by resolution a list of planting materials to be used for street trees and public trees. No species other than those provided in the resolution shall be planted as street trees or public trees without the specific permission of the tree board.
  - (2) No street tree shall be planted closer than 35 feet from any street corner, measured from the point of the intersection of the curbs or shoulders at such corner. No street tree shall be planted closer than ten feet from any fireplug.
  - (3) No street tree other than those species listed as small trees in the city zoning ordinance may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.
- (Ord. No. 99-116, § 4, eff. 9-30-99)

**Sec. 34-185. Tree topping.**

It shall be unlawful as a normal practice for any person, firm or city department to top any street tree or public tree. Topping shall mean the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires, or other obstructions where other practices are impractical may be exempted from this provision.

(Ord. No. 99-116, § 10, eff. 9-30-99)

**Sec. 34-186. Pruning—Corner clearance.**

Every owner of any tree overhanging any street right-of-way within the city shall prune the branches so that such branches shall not obstruct any street lamp from adequately illuminating the street or obstruct the view for drivers of any street intersection, and so that there shall be a clear space of eight feet above the surface of the

street. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property which overhangs any street right-of-way when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign, or interferes with the safe passage of pedestrians and vehicles.

(Ord. No. 99-116, § 11, eff. 9-30-1999)

**Sec. 34-187. Dead or diseased tree removal on private property.**

The city shall have the right to cause the removal of any dead or diseased private tree within the city, when such tree constitutes a hazard to life and property, or harbors insects or disease which constitutes a potential threat to other trees within the city, subject to the following procedure:

- (1) The city tree board shall notify the owner in writing regarding the need to remove such tree. The notice shall include a statement as to the problem with such tree, and the source of professional advice regarding the need for such removal. Removal shall be done by said owner at his/her own expense within 60 days after the date of service of such notice.
- (2) In the event of failure of the owner to comply with the notice provided in subsection a above, the city tree board shall notify the owner of such tree in writing, stating the city's intention to remove such tree and charge the cost of removal on the owner's property tax bill. The notice shall state that the owner has ten days from receipt of the notice to file with the city clerk a written request for an appeal of the order to the city council.
- (3) If the owner files a written appeal as provided in subsection (2) above, then the matter shall be scheduled on a regular or special city council meeting, and the owner shall be given at least seven days written notice of the hearing schedule. At the

hearing, the owner shall have the right to appear in person or be represented by an agent, and to present information and testimony. The decision of the city council shall be final.

- (4) If the owner does not file a written request for an appeal, or if the city council determines after a hearing that such tree should be removed, then the city shall proceed forthwith to remove such tree and levy the reasonable costs therefor on the owner's property.

(Ord. No. 99-116, § 12, eff. 9-30-99)

**Sec. 34-188. Removal of stumps.**

All stumps of street trees and public trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. No. 99-116, § 13, eff. 9-30-99)

**Sec. 34-189. Interference with city tree board.**

It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, public trees or private trees as authorized in this article.

(Ord. No. 99-116, § 14, eff. 9-30-99)

**Sec. 34-190. Arborist's license required for street and public trees.**

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing of street trees or public trees within the city without first applying for and procuring a license. No license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$100,000.00 property damage indemnifying the



city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ord. No. 99-116, § 15, eff. 9-30-99)

**Sec. 34-191. Oversight by city council.**

The city council shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal, in writing to the city clerk, from any ruling or order of the city tree board to the city council who may hear the matter and make final decision. When such an appeal is filed, the ruling or order related thereto shall be held in abeyance until the city council makes its final decision.

(Ord. No. 99-116, § 16, eff. 9-30-99)